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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

PAUL J. MALIKOWSKI, *et al.*,

Defendants.

Case No: 3:13-cv-00470-RCJ-VPC  
CASE MANAGEMENT REPORT

Comes now the plaintiff, the United States of America and the defendants, Paul J. Malikowski, and Bank of America, N.S., by and through their undersigned counsel, and submit this Case Management Report, stipulated discovery plan and scheduling order.

**1. Short Statement of the Nature of the Case.**

United States' Claim: The United States commenced this action to reduce to judgment the federal income tax assessments against defendant Paul J. Malikowski for the years 2002, 2003, 2004, 2005, 2006, and 2007. The assessed federal income tax liabilities are based on the Form 1040 Federal Income Tax Returns filed by defendant Paul J. Malikowski.

1 In addition, the United States seeks to foreclose the federal tax liens against the real  
2 property located at 4755 Cedarhill, Reno, Nevada 89509, titled in the name of defendant Paul J.  
3 Malikowski. Defendant Bank of America, N.A. holds a deed of trust against the real property  
4 which was recorded with the Washoe County Recorder's Office on April 9, 2003.

5 **Defendant Paul J. Malikowski:**

6 Defendant Paul J. Malikowski generally denies the amounts of liability in dispute, and in  
7 particular disputes the right of the United States to foreclose expired liens on his personal  
8 residence. In addition, 26 U.S.C. 6334(e) (1) places certain procedural requirements on the  
9 United States prior to the foreclosure it seeks, which it has not complied with.

10 **Defendant Bank of America, N.A.:** Bank of America is a defendant in this action, and  
11 does not disagree with the United States' statement of the case.

12 **1. Principal factual and legal disputes in the case:**

13 (1) The amount of federal income tax liabilities owed by Paul J. Malikowski for the  
14 years 2002, 2003, 2004, 2005, 2006, and 2007.

15 (2) Whether the United States may foreclose its federal tax liens against the real property  
16 located at 4755 Cedarhill, Reno, Nevada 89509.

17 **2. Jurisdictional bases for the case:** The Court has jurisdiction over this case pursuant to  
18 26 U.S.C. §§ 7402 and 7403 and by 28 U.S.C. §§ 1340 and 1345.

19 **3. Parties who have not been served/parties served but not answered:** All parties have  
20 been served and the defendants have answered.

21 **4. Additional parties to the case or amendment of pleadings:** The parties do not  
22 anticipate adding parties to the case.

23 **5. Contemplated motions:**

24 **Plaintiff:** Plaintiff anticipates filing a Motion for Summary Judgment after the close of  
25 discovery.

1 **Defendant Paul J. Malikowski:** Defendant Paul J. Malikowski anticipates filing a Motion  
2 for Partial Summary Judgment after the close of discovery and a Motion for Dismissal of certain  
3 claims of the United States following discovery. It is unclear at this time whether these Motions  
4 can or will fully dispose of the action.

5 **Defendant Bank of America, N.A.:** Bank of America does not contemplate any motion at  
6 this time, as discovery is not yet open in this matter. Bank of America reserves its right to later  
7 file any motion it deems appropriate, as the case progresses through discovery.

8 **6. Pending motions:** There are no pending motions at this time.

9 **7. Status of related cases:** No related cases.

10 **8. Supplemental discussion of necessary discovery:** To the extent any experts are  
11 noticed, additional discovery related to those experts' opinions may be necessary.

12 **9. Electronic discovery:** The parties do not have any concerns relating to the disclosure or  
13 discovery of electronic discovery at this time.

14 **10. Claims of privilege or work product:** There are no outstanding issues relating to claims  
15 of privilege or work product.

16 **11. Discovery plan and scheduling order:**

17 1. **Discovery Cut-Off Date:** Discovery in this action will be completed one hundred  
18 eighty (180) days from the date of the Case Management Conference or on or before May 11,  
19 2016.

20 2. **Amending the Pleadings and Adding Parties:** Pursuant to Local Rule 26-1(e)(2) the  
21 date for filing motions to amend the pleadings or to add parties shall be not later than ninety (90)  
22 days prior to the close of discovery or on or before February 12, 2016.

23 3. **Fed. R. Civ. P. 26(a)(2) Disclosures (Experts):** Pursuant to Local Rule 26-1(e)(3)  
24 disclosures of expert testimony required under 26(a)(2) are to be made sixty (60) days before the  
25 discovery cut-off date or on or before March 11, 2016, and disclosures respecting rebuttal  
26

1 experts are to be made thirty (30) days after the initial disclosure of experts, on or before April  
2 11, 2016.

3 4. **Dispositive Motions:** Pursuant to Local Rule 26-1(e)(4) any and all dispositive  
4 motions including, discovery motions, motions to dismiss and motions for summary judgment  
5 (but excluding motions in limine) shall be filed not later than thirty (30) days after the discovery  
6 cut-off date or on or before June 10, 2016.

7 5. **Pretrial Order:** Pursuant to Local Rule 26-1(e)(5) a joint pretrial order shall be filed  
8 no later than thirty (30) days after the date set for filing dispositive motions or on or before July  
9 11, 2016. In the event dispositive motions are filed, the date for filing the joint pretrial order  
10 shall be suspended until thirty (30) days after decision of the dispositive motion or further order  
11 of the court.

12 6. **Fed. R. Civ. P. 26(a)(3) Disclosures:** Pursuant to Local Rule 26-1(e)(6) the  
13 disclosures required by Fed. R. Civ. 26(a)(3) and any objection thereto shall be included in the  
14 pretrial order.

15 12. **Patent case:** (n/a).

16 13. **Jury trial:** A jury trial has not been requested.

17 14. **Estimate length of trial:** The parties estimate trial will last three days.

18 15. **Calendaring Trial:** The parties will bring their calendars to the case management  
19 conference and be prepared to set the case for trial.

20 16. **Trial Setting:** *See infra*.

21 17. **Settlement:** At this early stage of litigation, it is not possible to determine the prospects  
22 for settlement.

Respectfully submitted this 5th day of November 2015.

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**ORDER FOLLOWING CASE MANAGEMENT CONFERENCE**

In addition to the dates set forth in the Stipulated Discovery Plan and Scheduling Order in this matter IT IS FURTHER ORDERED THAT THE TRIAL IS SET FOR 12/1/2015 8:00 AM VPC  
September 11, 2015, 8:30 A.M., CALENDAR CALL IS SET FOR September 6, 2015  
10:30  
8:30 A.M. In Reno Courtroom 6 before the Honorable Chief Judge Robert C. Jones.

Dated: This 13<sup>th</sup> day of November, 2015.

Valerie P. Cooke  
VALERIE P. COOKE  
UNITED STATES MAGISTRATE JUDGE  
DATED: November 13, 2015